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Paper 69

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

WILLIAM W. MICHALCEWIZ, GEORGE C. TUNIS III,
RIKARD K. HARALDSSON, and BROCK J. VINTON

Junior Party,
(Patent 5,505,030),

v.

NORMAN C. FAWLEY,

Senior Party,
(Application 08/205,502).

Patent Interference No. 104,548

Before GARDNER-LANE, MEDLEY and TIERNEY, Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

On January 30, 2001 paralegal specialist Sonja Despertt telephoned counsel for junior party Michalcewiz, Mr. Andrade, to determine why Michalcewiz had failed to file its brief on the issue of priority. The brief was due January 16, 2002. Mr.

Andrade indicated that Michalcewiz had abandoned the contest and would file a paper indicating such.

On February 6, 2002, the board received from Michalcewiz a letter in which Michalcewiz (Hardcore Operations, LLC) indicates that it has "decided not to continue with the patent interference" (Paper 68).

In essence, Michalcewiz has abandoned the interference contest. An abandonment of the contest will be treated as a request for entry of an adverse judgment against Michalcewiz as to all claims which correspond to the count. 37 CFR § 1.662(a).

Upon consideration of Michalcewiz abandonment of the contest (Paper 68), it is

ORDERED that judgment on priority as to Count 1 (Paper 54, pages 2-3) and Count 2 (Paper 54, pages 3-4) is awarded against junior party WILLIAM W. MICHALCEWIZ, GEORGE C. TUNIS III, RIKARD K. HARALDSSON, and BROCK J. VINTON.

FURTHER ORDERED that junior party WILLIAM W. MICHALCEWIZ, GEORGE C. TUNIS III, RIKARD K. HARALDSSON, and BROCK J. VINTON is not entitled to a patent containing claims (1) 1, 2, 6, 8, 9, 13, and 15-19 and (2) 20-22, 25, 26, 28-30, 32, 36-39, and 43 (corresponding to the Counts 1 and 2 respectively) of U.S. Patent 5,505,030, filed 14 March 1994.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 08/205,502 and U.S. Patent 5,505,030.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

_____)	
SALLY GARDNER-LANE)	
Administrative Patent Judge)	
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_____)	BOARD OF PATENT
SALLY C. MEDLEY)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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_____)	
MICHAEL P. TIERNEY)	
Administrative Patent Judge)	

cc (via Federal Express and facsimile):

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